ORDINANCE NO. 2

Series, 1980

AN ORDINANCE GRANTING TO ELGIN T.V. ASSOCIATION, INC., A NON-PROFIT OREGON CORPORATION, A NON-TRANSFERABLE AND NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A COAXIAL CABLE SYSTEM FOR TELEVISION SIGNAL DISTRIBUTION THROUGHOUT THE CITY OF ELGIN, AND DECLARING AN EMERGENCY.

THE CITY OF ELGIN DOES ORDAIN AS FOLLOWS:

Section 1:

The City of Elgin, Union County, Oregon, hereinafter designated as and referred to as the City, hereby grants to Elgin T. V. Association, Inc., a non-profit Oregon corporation, under the conditions and limitations prescribed herein, the right, privilege, authority and franchise, to construct, operate and maintain, in, over, upon and under the streets, alleys and public highways of the City, a coaxial cable system for television signal distribution; and in connection therewith to erect poles, with or without cross-arms and stretch wires and cables, to install underground pipes and conduits with such appliances and equipment as is necessary in connection therewith, to erect antennas or other appurtenances thereon, and to maintain and use all of the same in connection with said coaxial cable system.

Section 2:

All poles, cables, wires, antennas, conduits and any and all other equipment and appurtenances thereto shall be constructed and erected in a neat, workmanlike manner. Grantee shall if necessary arrangements can be made and wherever practicable make use of such poles as have heretofore been erected in said streets; otherwise grantee, as to the original erection of any poles, antennas or other equipment for the running of wires or cables, shall construct such poles, antennas or other equipment in order that the same shall be reasonably in line with and in accordance with the pattern of the poles heretofore constructed upon said streets. Any original installation or repair works which require the disturbance of any street shall not be undertaken until permission and approval of the Council is first obtained.

Section 3:

Nothing in this ordinance shall be construed to prevent the City from sewering, planking, paving, grading, altering or otherwise improving or reimproving any of the streets of the City. The City shall not be liable to grantee for any damage resulting to grantee by reason of the performance of any such work or by the exercise of any such rights of the City. This ordinance shall not be so construed so as to deprive the City of any rights or privileges which it now has or which may hereafter be conferred upon it to regulate the use and control of the streets within the City to the extent that the City shall find it necessary, expedient or convenient, and in its sole discretion, determines to improve any street or grade thereof to any extent, as a result thereof, changes, modifies, raises or lowers the size, position or location any of the installations belonging to grantee, such installations of grantee shall be promptly adjusted, removed, altered, raised, lowered or otherwise modified to conform with the improvements or changes made by the City at the sole cost and expense of grantee and in conformity with the requirements which may be stipulated by the Council.

Section 4:

All construction hereby authorized shall conform to the requirements of the National Electric Safety Code, the laws of the State of Oregon, and the ordinances of the City of Elgin, Union County, Oregon, governing overhead and underground construction and maintenance of

wires, cables, poles and conductors for wires or cables carrying low voltage electricity. The cables, wires, antennas and conductors constructed, run or suspended by grantee hereunder shall be properly insulated, connected and fastened so as not to be or come in any contact with any object through or by which a ground or short circuit could be formed and shall be run, stretched and constructed so as not to interfere with the free and unobstructed use of the streets.

Section 5:

Whenever it becomes necessary for grantee in the installation of any of its equipment to take or dig up any portion of the street or it becomes necessary for grantee to take or dig up any portion of any street for the purpose of any repairs which it may hereinafter make, it shall first obtain the approval of the Council as hereinabove provided for; grantee shall promptly replace any portion of the street disturbed by such installation or repair work in a neat and workmanlike manner to its original condition as required and in accordance with the direction of the Council.

Section 6:

Whenever permission is obtained from the City for use of any streets of the City for the purpose of moving or removing any buildings, or structures, grantee shall within forty-eight (48) hours notice from the City, raise and remove any wires, cables or conductors or any other equipment of grantee which may obstruct such moving or removal of such building or structure.

Section 7:

Grantee shall maintain and keep in repair all equipment constructed or installed in such a manner as to prevent the same from constituting a hazard, a dangerous condition or a nuisance.

Section 8:

In the event the grantee shall fail to comply with any of the requirements on his part hereunder with respect to the installation or construction or with reference to the removal or reinstallation or with respect to its repair or maintenance or with respect to the repair of City streets, as the same is applicable to any and all of grantee's equipment, the City shall have the right to have such work done and grantee shall be liable to the City for the expense thereof.

Section 9:

The rights and privileges and franchise herein granted shall be deemed to be non-exclusive; and the right is hereby reserved by the City to grant to any other person, company, orporation or association or to the City itself, the rights privileges and franchise the same as or similar to those herein granted. The City further reserves the express right hereunder and the rights, privileges and franchises granted herein shall be subject to the right of the City, or the people of the City acting for themselves by the initiative or referendum, to amend or modify this Ordinance and grant, with due regard for the rights of the grantee and the interest of the public; and to cancel, forfeit or abrogate the rights and privileges herein granted by this Ordinance if the same are not exercised in full accordance with the provisions hereof, or any of the provisions herein. At any time during the life of this grant, the City reserves the right unto itself to acquire by purchase or condemnation for the use of the City itself, all of the property of the grantee, placed under this grant within the limits of the streets, at a fair and just value, which value shall not include any valuation for the grant herein provided in and of itself or of any of the rights or privileges or the franchise herein granted.

Section 10:

The rights, privileges and franchise herein granted shall cease and terminate at 12:00 o'clock, midnight, on the 10th day of June, 1990, and unless grantee has prior to said date, obtained from the City a new grant and franchise, grantee shall within ninety (90) days after said termination and at its own cost and expense remove all constructions, installations and equipment hereby authorized from the City streets, and shall place all portions of the City streets that may have been disturbed thereby in as good a condition for public use as said City streets abutting thereon are at the time of said removal.

Section 11:

The grantee shall indemnify and save the City free and harmless from any and all liability, loss, cost, damages or expense due to casualty, accident or damage, either to the City itself, or to any other person or to the property of any other person, which at any time may arise or occur by reason of the exercise of the rights and privileges and franchise herein granted. Grantee shall within ten (10) days from the effective date of this Ordinance place in full force and effect and file evidence thereof with the City Recorder of the City, a good and sufficient policy of liability and property damage insurance insuring grantee against loss from personal injury in the amount of $25,000.00 for each person and $50,000.00 for each accident and from property damage in the amount of $25,000.00, such policy to be executed by an insurance company authorized and qualified to do business in the State of Oregon, by reason of the negligence of grantee, its agents or independent contractors, or employees, in the erection, construction, reconstruction, relocation, replacing, readjustment, repair, maintenance or operation of the coaxial cable distribution system hereinabove referred to or any appurtenances or equipment thereunto appertaining or by reason of anything that has been or may be done by grantee under and by virtue of this franchise.

Section 12:

Grantee shall have the right to charge and collect a reasonable compensation from all persons, firms, companies or corporations to whom it shall furnish television reception service, including a construction, installation, repair or maintenance charge or charges. Until otherwise provided by State law, the City shall have jurisdiction and control over said construction, installation, repairs, maintenance and services authorized by this franchise and all rates and charges therefor to the same extent that the Public Utilities Commission of the State of Oregon- now has over the rates, charges and services of utilities which are subject to the jurisdiction of such commission, such jurisdiction and control being at all times subject to review by any Court or competent jurisdiction.

Section 13:

The rights, privileges and franchise hereby granted shall not be assignable or transferable in any manner whatsoever, including by operational law on the part of grantee, nor shall said grantee mortgage or otherwise encumber the same without first obtaining the consent of City by resolution.

Section 14:

Grantee shall at all times fully and faithfully perform all of the terms, provisions and conditions of this franchise; shall grant and furnish efficient service hereunder and shall maintain its property in good order, and repair throughout the entire term of the grant and upon any default of the grantee hereunder and the continuance of such default for a period of thirty (30) days from and after receipt of written notice from the City Recorder of the City specifying such default , the City may by Ordinance and for good cause shown forfeit this grant or franchise

and all the rights and privileges herein conferred upon the grantee.

PASSED this 10th day of June, 1980

APPROVED this ~~10th~~ day of June, 1980.

Thomas B. Grant
Mayor

Attested and filed this 10th
day of June, 1980

Betty J. Huber
City Recorder

ACCEPTANCE OF FRANCHISE

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, Elgin T.V. Association, Inc. a non-profit Oregon Corporation, duly qualified to transact a public business in the State of Oregon, does hereby accept in writing all of the terms and conditions of Ordinance no. 2 of the City of Elgin duly passed by the City Council of the City of Elgin on June, 10, 1980, granting to the undersigned the right, privilege and franchise to operated throughout the City of Elgin as a public television service and to use the streets, alleys, avenues and public highways within the corporate limits of the City of Elgin to conduct its operations.

ELGIN T.V. ASSOCIATION, INC.

BY Juanita Olson, Secty

Dated:

Received for REcordation

July 10, 1980

Betty J. Sulse, Recorder

CITY OF ELGIN by Loren DeLeus